



**U.S. Department of Justice**

United States Attorney

District of New Jersey

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*Jordan M. Anger*  
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February 13, 2023

**VIA ECF**

The Honorable Susan D. Wigenton  
United States District Judge  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

Re: *United States v. Ankur Agarwal*,  
Criminal Number: 19-00770 (SDW)

Dear Judge Wigenton:

I am an Assistant United States Attorney assigned to the Asset Recovery Money Laundering Unit and I am responsible for the enforcement and collection of the Special Assessment and Fine that was ordered in the above-referenced case. The United States respectfully submits this letter in response to Defendant Ankur Agarwal's Pro Se Motion to Revise the Fine Schedule of Payments dated January 23, 2023 (ECF# 75) ("Mot.").<sup>1</sup> For the reasons provided below, the Government respectfully requests that the Court deny Defendant's Motion without prejudice pending his completion of the Financial Disclosure Form that is being provided to him with this letter in order for the Government and Court to have a complete understanding of Defendant's financial status in order to determine an appropriate payment schedule for him.

By way of background, on October 22, 2019, Defendant Ankur Agarwal pleaded guilty to a three-count information charging him with one count of aggravated identity theft and two counts of intentionally accessing a protected computer without authorization. ECF# 31. The plea agreement contained an appellate waiver. *Id.* at 4, 9-10.

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<sup>1</sup> The Motion was received by the Clerk of the Court and the ECF filing date were February 6, 2023. *See* Mot. at 1.

On September 3, 2020, this Court sentenced Defendant to, *inter alia*, 94 months incarceration and pay a Special Assessment in the amount of \$300.00 and a Fine in the amount of \$25,000.00 (plus interest) for a total debt of \$25,300.00. ECF# 50. The Court ordered that the Special Assessment and Fine were “due immediately.” The Court further ordered that the Fine was to be paid in full by October 3, 2020 (*id.* at 1 and 7). As of October 3, 2020, the Defendant’s fine remained unpaid.

On November 18, 2020, Defendant filed a motion in which he requested that he be allowed to pay his fine through five annual payments of \$5,000.00 each. Those fine payments were to commence on February 1, 2021 (ECF# 58). The Government did not oppose the motion. On November 19, 2020, the Court granted the Defendant’s motion. ECF# 59.

On February 1, 2021, the date Defendant’s first \$5,000 payment was due, no payment was made. Similarly, Defendant failed to make the second scheduled payment on February 1, 2022. As a result, when the Government filed its motion for a turnover order on March 16, 2022, the Defendant was over 13 months and two payments in arrears with the amended judgment payment schedule that he requested.

On April 3, 2022, after the United States filed its motion, Defendant made a payment of \$10,000 – presumptively making up for the two \$5,000 payments he missed – but did not notify either the Government or the Court of this change in status until writing his response nearly two weeks later.

Concurrently with these events, despite the appellate waiver in plea agreement, Defendant filed an appeal. *See United States of America v. Ankur Agarwal*, 20-2890 (3d Cir.). On February 3, 2022, the Third Circuit affirmed Defendant’s judgment. Dkt# 48, 49. On February 17, 2022, Defendant filed a motion for Rehearing En Banc (Dkt# 51) and on March 24, 2022, the Third Circuit denied that motion (Dkt# 52).

In his current Motion, Defendant makes several unsupported assertions suggesting that he cannot maintain the payment schedule that he requested. Defendant avers that: “the financial burden of the appeal has weighed substantially [. . . ], [Defendant] has to save for child (sic.) education and care for an elderly Mom.” Mot. 2. None of these factual averments, however, support a motion to revise his payment schedule. Specifically, nothing about saving for his children’s education or care for his elderly mother can possibly be considered a change in circumstances. Further, Defendant’s suggestion that “the financial burden of the appeal has weighed substantially” is directly contradicted by the fact that just barely a week after Defendant had exhausted his appeals, he made a ten thousand dollar (\$10,000.00)

payment towards his outstanding fine obligation. So apparently, the appeal costs did not exhaust Defendant's savings.

As a result, Defendant has provided the Court no substantiated basis for adjusting his payment schedule. Accordingly, the Government, by this letter, has provided Defendant with the Financial Disclosure Form. The Government strongly recommends that the Defendant complete the form and attach all necessary supporting documents in order to provide the Government and the Court an opportunity to access his current financial status. After that process is complete, if the parties cannot agree on a reasonable payment schedule, then Defendant will be free to renew his motion.

Based on the foregoing, the United States respectfully requests that the Court deny Defendant's Motion to Revise the Fine Schedule of Payments without prejudice.

Respectfully submitted,

PHILIP SELLINGER  
United States Attorney

By: s/ Jordan M. Anger  
JORDAN M. ANGER  
Assistant United States Attorney

CERTIFICATE OF MAILING

I hereby certify that on February 13, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Samuel M. Braverman

In addition, I hereby certify that these documents were mailed, via Certified Mail, to the following non-CM/ECF participant:

Defendant:

Ankur Agarwal

Register Number: 71563-050

Federal Correctional Institution – Fort Dix Satellite Camp

P.O. Box 2000

Joint Base MDL, New Jersey 08640

By: s/ Jordan M. Anger  
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